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Attorneys for Defendant JPMorgan Chase Bank, N.A.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

Dennis Raybould,

Plaintiff,

v.

RUSHMORE LOAN MANAGEMENT
SERVICES, LLC;

JPMORGAN CHASE BANK, NATIONAL
ASSOCIATION, WHOSE ADDRESS IS 700
Kansas Lane, MC 8000, MONROE, LA 71203,
(ASSIGNOR),

RMAC TRUST, SERIES 2016-CTT,

U.S. BANK NATIONAL ASSOCIATION,
NOT IN ITS INDIVIDUAL CAPACITY BUT
SOLELY AS TRUSTEE FOR THE RMAC
TRUST, SERIES 2016-CTTT, whose address is
60 LIVINGSTON AVENUE, ST. PAUL, MN
55107-2292, ITS SUCCESSORS AND
ASSIGNS, (ASSIGNEE)

Defendants.

Case No. 6:19-cv-01364-AA

**DEFENDANT JPMORGAN CHASE
BANK, NATIONAL ASSOCIATION'S
REPLY IN SUPPORT OF MOTION TO
DISMISS AND REQUEST FOR
JUDICIAL NOTICE**

Defendant JPMorgan Chase Bank, N.A. (“Chase”) filed and served its Motion to Dismiss plaintiff’s Complaint on September 13, 2019. Dkt. No. 10. Chase also filed a Request for Judicial Notice on September 13, 2019. Dkt. No. 11. Plaintiff’s response to Chase’s Motion and to the RJN was due on September 30, 2019, but plaintiff failed to file any response or opposition.¹ Plaintiff’s failure to respond constitutes a concession that Chase’s arguments have merit. *See Kozorezov v. Bank of Am., N.A.*, 2010 WL 5300561, *3 (W.D. Wash. 2010) (“Plaintiffs failed to respond to those arguments, which the Court construes as a concession that defendants’ arguments have merit.”); *adidas Am., Inc. v. Payless Shoesource, Inc.*, 529 F. Supp. 2d 1215, 1258 (D. Or. 2007) (“By failing to respond to adidas’ legal abandonment argument, Payless effectively concedes that adidas’ has not abandoned its rights in the Three-Stripe Mark or its Superstar Trade Dress.”); *Knapp v. JP Morgan Chase Bank, N.A.*, 2011 WL 2433644, *2 (E.D. Cal. 2011), *report and recommendation adopted*, 2011 WL 2433641 (E.D. Cal. 2011) (“By failing to timely file supporting papers in response to the order, defendants have conceded the propriety of injunctive relief.”). Further, it is not the Court’s responsibility to independently investigate whether plaintiff may have been able to offer substantive opposition had he actually responded (and plaintiff could not have done so—as described in Chase’s Motion, plaintiff has already litigated and lost his claims). *See, e.g., Greenwood v. FAA*, 28 F.3d 971, 977 (9th Cir. 1994) (“Judges are not like pigs, hunting for truffles buried in briefs.”); *Lekas v. Briley*, 405 F.3d 602, 614-15 (7th Cir. 2005) (“our judges are busy people” and “given plausible reasons for dismissing a complaint, they are not going to do the plaintiff’s research and try to discover

¹ Plaintiff filed a purported Notice of Appeal on October 2, 2019. Dkt. No. 13. That Notice purports to appeal this Court’s discovery and case management orders and two orders granting extensions of time to respond to plaintiff’s Complaint. *Id.* (citing Dkt. Nos. 3, 5, 7, 9). None of those orders is appealable, and all but the last order (granting additional time for defendants Rushmore Loan Management Services, LLC and U.S. Bank National Association additional time to respond to the complaint) were entered more than 30 days before the purported Notice of Appeal, which is facially untimely. The Court should disregard the Notice of Appeal as frivolous.

whether there might be something to say against defendants' reasoning"). Accordingly, the Court should grant Chase's Motion and RJN and dismiss plaintiff's Complaint with prejudice as barred by claim and issue preclusion and for failure to state any claim against Chase.

DATED this 14th day of October, 2019.

DAVIS WRIGHT TREMAINE LLP

By: s/ Kevin H. Kono

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CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **DEFENDANT JPMORGAN CHASE BANK, NATIONAL ASSOCIATION'S REPLY IN SUPPORT OF MOTION TO DISMISS AND REQUEST FOR JUDICIAL NOTICE** on:

Dennis Raybould
P.O. Box 241
Florence, OR 97431
(541) 997-1311
Plaintiff in Pro Se

☒ by mailing a copy thereof in a sealed, first-class postage prepaid envelope, addressed to said attorney's last-known address and deposited in the U.S. mail at Portland, Oregon on the date set forth below;

☐ by causing a copy thereof to be hand-delivered to said attorney's address as shown above on the date set forth below;

☐ by sending a copy thereof via overnight courier in a sealed, prepaid envelope, addressed to said attorney's last-known address on the date set forth below;

☐ by faxing a copy thereof to said attorney at his/her last-known facsimile number on the date set forth below; or

☐ by emailing a copy thereof to said attorney at his/her last-known email address as set forth above.

☐ by using electronic transmission of a notice of filing by the electronic filing system provided by the Oregon Judicial Department, Odyssey File and Serve.

Dated this 14th day of October, 2019.

DAVIS WRIGHT TREMAINE LLP

By: s/ Kevin H. Kono

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Of Attorneys for Defendant JPMorgan Chase, N.A.